

**State of Utah****Department of  
Natural Resources**

MICHAEL R. STYLER  
*Executive Director*

**Division of  
Oil, Gas & Mining**

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

September 15, 2006

Certified Return Receipt  
7004 2510 0004 1824 7968

Mark Reynolds, Permitting Coordinator  
Co-Op Mining Company  
P. O. Box 1245  
Huntington, Utah 84528

Subject: Reassessment of Penalty, Notice of Violation N06-46-1-1, Co-Op Mining Co., Bear Canyon Mine, C/015/025, Outgoing File

Dear Mr. Reynolds:

Enclosed please find the reassessment for Notice of Violation N06-46-1-1. The abatement requirements have now been satisfied. Now that the Violation has been terminated the assessment can be completed. Even though the violation has been terminated, you are still required to pay the penalty.

The "proposed" civil penalty assessment for the above referenced notice of violation was sent to you on February 24, 2006. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R645-401-630, the penalty is to be reassessed when it is necessary to consider facts, which were not reasonably available on the date of the issuance of the proposed assessment. Following is the reassessment of the penalty for the violation:

- N06-46-1-1 \$484

The enclosed worksheet specifically outlines how the violation was assessed. You should note that good faith points have now been awarded. If you are satisfied with this assessment, you should make payment to the Division of Oil, Gas & Mining.

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Mark Reynolds  
C/015/025  
September 15, 2006

Otherwise, under R645-401-700, there are two informal appeal options available to you:

- 1 If you wish to informally appeal the fact of the Violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or assigned conference officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock  
Assessment Officer

Enclosure: Worksheet

cc: Vicki Bailey, Accounting

Vickie Southwick, Exec. Sec.

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**WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Co-Op Mining Company – Bear Canyon Mine PERMIT C/015/025  
NOV/CO # N06-46-1-1 VIOLATION 1 of 1

ASSESSMENT DATE February 22, 2006

ASSESSMENT OFFICER Daron R. Haddock

**I. HISTORY (Max. 25 pts.)**

A. Are there previous violations, which are not pending or vacated, which fall one (1) year of today=s date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N05-46-1-1</u>	<u>4/15/2005</u>	<u>1</u>
_____	_____	_____

1 point for each past violation, up to one (1) year

5 points for each past violation in a CO, up to one (1) year

No pending notices shall be counted

**TOTAL HISTORY POINTS 1**

**II. SERIOUSNESS (Either A or B)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.

2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or HINDRANCE (B) violation? Hindrance (B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated

standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*Not Applicable**

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*Not Applicable**

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? 15  
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 15

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*The Permittee failed to collect and analyze water quality samples from all active surface and ground water monitoring points as required during August 2005. This action prevented/hindered the Division's assigned hydrologist and inspector from reviewing the information in a timely manner. Without this information being collected and submitted, it is impossible to determine what impact mining may have had on the hydrologic balance at these sites. Points are assessed in the upper middle part of the range because of actual hindrance.**

TOTAL SERIOUSNESS POINTS ( A or B ) 15

III. NEGLIGENCE (Max 30 pts.)

A. Was this an inadvertent violation, which was unavoidable by the exercise of

reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 16

**PROVIDE AN EXPLANATION OF POINTS:**

***\*\*\*The Permittee should have been aware that these sites were part of their monitoring program. The water monitoring plan found in the approved MRP (Table 7-14) describes the sites and parameters to be analyzed. A violation was issued on April 15, 2005 for failing to submit water monitoring data. It should have been evident after this last violation that the water monitoring plan needed to be strictly adhered to. Because this is the second violation of this nature within a year, I view this as lack of diligence to the point that it is a greater degree of fault. Thus 16 points are assigned.***

**IV. GOOD FAITH (Max 20 pts.)**

(Either A or B)

(Does not apply to violations requiring no abatement measures)

A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20\*

(Immediately following the issuance of the NOV)

- Rapid Compliance -1 to -10

(Permittee used diligence to abate the violation)

- Normal Compliance 0

(Operator complied within the abatement period required)

(Operator complied with condition and/or terms of approved Mining and

Reclamation Plan)

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

B. Did the permittee not have the resources at hand to achieve compliance, or

does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20\*

(Permittee used diligence to abate the violation)

- Normal Compliance -1 to -10\*

(Operator complied within the abatement period required)

- Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV

or the violated standard of the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and

Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? difficult

ASSIGN GOOD FAITH POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

*\*\*\*The operator could not go back and collect the water samples after the fact, however, the abatement required samples to be collected and analyzed during August of 2006 (period of low flow). The Operator provided evidence on August 30, 2006 that they had collected the required samples and had a lab work order showing the samples to be analyzed and the violation was terminated on August 31, 2006. This abatement is considered to be difficult because the collection of samples was required and the Operator had to complete paperwork as part of the abatement. The Operator met the abatement requirement which required that the samples be collected prior to August 31, 2006. Since the abatement was completed as required, good faith is warranted. The Permittee complied with the requirements and 10 good faith points are awarded.*

**V. ASSESSMENT SUMMARY**

NOTICE OF VIOLATION # N 06-46-1-1

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>16</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>22</u>

TOTAL ASSESSED FINE \$ 484